



IN THE  
**Supreme Court of the United States**

October Term, 1978

No. 79-125

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ANABEL J. McCUTCHEON, *Pro Se*  
Petitioner,  
vs.  
THE CHICAGO PRINCIPALS ASSOCIATION,  
AFL-CIO, Local 2, AMERICAN FEDERATION OF  
SCHOOL ADMINISTRATORS  
  
THE CHICAGO BOARD OF EDUCATION, *Et. Al.*  
Respondents.

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**PETITION FOR A WRIT OF CERTIORARI  
TO THE UNITED STATES COURT OF APPEALS  
FOR THE SEVENTH CIRCUIT**

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COMES NOW ANABEL J. McCUTCHEON on her own behalf, and respectfully petitions this Honorable Court to issue a writ of certiorari to the United States Court of Appeals for the Seventh Circuit to review that Court's decisions in Anabel J. McCutcheon vs. the Chicago Principals Association, AFL-CIO, Local 2 American Federation of School Administrators in 78-2467 (and erroneous number 78-2538) which upheld the dismissal of the Union and the Union President before trial as Not Guilty on a motion for summary judgment.

**OPINIONS BELOW**

The order of the United States District Court is docketed on October 20, 1978 and is printed in Appendix A on page \_\_\_\_.

The United States Court of Appeals entry is not reported and is printed in Appendix B on page \_\_\_\_.

The order of the United States Court of Appeals, denying a rehearing is not reported and is printed in Appendix C on page \_\_\_\_.

There is no order denying reimbursement of docketing fees under 28 U.S.C. §1292 because redress was requested and denied by the Appellate Court 78-2545 and included in a previous petition, docketed 78-1705.

The order [concerning Defendants' Motion to resist surrender of the Court file] is entered "Not to Enter an Order" on Nov. 7, 1978 and is printed in Appendix D on page \_\_\_\_.

**JURISDICTION**

The Appellate Court decision herein was entered on Feb. 22, 1979 and its order denying a rehearing was entered on April 27, 1979.

The jurisdiction of this Court is invoked under 28 U.S.C. 2101 (c) and §1291.

**QUESTIONS FOR REVIEW**

1. Whether a summary judgment dismissing defendants before trial is an interlocutory order when that dismissal is final and can be the basis for a mistrial at a later date, detrimental to the public interest: In this specific case, the Court order only specified the Union dismissal in Count II, but President Samuel Dolnick was dismissed regardless of the fact that his name did not even appear in the Complaint, Count II or the Court Order.

2. Whether the Court erred in dismissing Defendant Samuel Dolnick from Counts III and IV as President of the Union, although he was charged with personal failure:

a) to represent Plaintiff in two criminal defenses, her defense being specifically directed by the procedures in the Union Insurance Contract, September, 1975;

b) to represent Plaintiff in the suspension-firing defense, the procedure that the Union Attorney, Ron Cope was specifically directed by the Executive Board of the Union, September 17, 1976;

Whether the Court erred in dismissing a predominantly male Chicago Principals Union, named in the "Right to Sue Letter" on the sole affidavit argument of President Samuel Dolnick, named in Counts III and IV for personal retaliatory acts.

- 4) Whether the Court erred in dismissing a predominantly male Union on the sole argument that the Union did not discriminate against her on the basis of her sex, when the charges were filed under the Retaliation Clause of Section 706 of the Civil Practices Act of 1974, 42 U.S.C., Section 2000 c-5 -- specifically marked by "x" in boxes for "Wages", "Benefits", "UNION REPRESENTATION" and "REPRISAL".
- 5) Whether the Court denied Plaintiff fair and equal representation when it entered no decision on Defendants' Motion [after its dismissal] to resist the surrender of the Court file, secured in the Judge's chambers which *Pro Se* Plaintiff has never seen.

## CONSTITUTIONAL PROVISION INVOLVED

Fourteenth Amendment, United States Constitution, \$1... "nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws".

Other Constitutional Provisions are hereto enclosed as Appendix E, F, G.

[Enter pages 17-19 as Appendix E; Appendix F- p. 19; Appendix G-p.20] Add above Appendix F, G,: "In reference to Question 2, Counts III and IV of Complaint filed -- Defendant President Samuel Dolnick"]

## STATEMENT OF THE CASE

1. An Administrative Compensation Plan (ACP), 71-270 was implemented by the Defendant Chicago Board of Education, September 1, 1971 with a 4.5% reduction in pay to all female principals, District Three and a higher base pay established for male principals, District Three. Plaintiff maintained this reduction until Aug. 9, 1974 without any representation from the union.
2. Plaintiff returned her first reduced check and requested its correction: the Union asked for copies of all checks to file a system-wide grievance, BUT NONE WAS EVER FILED.
3. In September, 1972-Dec., 1972 Plaintiff filed a salary appeal, received no representation from the Union: although her attorney had offered to work for no fees as the Union attorney. Bill Rankin, principal of the Murphy and not a Union member, received for the same appeal, same time period--the Union Attorney's services, Anthony Fornelli who had also represented him in his suspension proceedings--and he was not

fired: nor did he loose three years' pay as per Union female members, Beulah Jones, Analie McCutcheon.

4. Charges were filed with the EEOC, June 15, 1974 without the representation of the Union, whose President alleged: "Your grievances are hurting the men."
5. Following Plaintiff's charges against him and Associate Member, Gerard J. Heing, Defendant Chicago Board of Education, to the Parent Organization, George Meany, Dec., 1974 and to the FEPC with Meany's letter of refusal, May, 1975 and to the U.S. Department of Labor, which alleged no jurisdiction over teachers: President Samuel Dolnick failed to represent Plaintiff on criminal and suspension defenses; fabricated unethical charges against Plaintiff before the Executive Board on Dec. 3, 1975 and testified to same at her suspension-firing hearings on Sept. 26, 1977; demanded full payment of dues, 1976, 1977, when said dues are based on a percentage of her principal's salary when she was suspended WITHOUT ANY SALARY; appeared at a March 10, 1976 grievance of an Audubon teacher against Plaintiff and placed into that record a statement that The Chicago Principals Association was not representing Plaintiff in support of Associate Member, Gerard J. Heing, who had wrongly integrated this white teacher to an all-white school.

Board of Education members, Margaret Wild and Mrs. Carey Preston (dismissed from this suit on alleged "absolute immunity"--with 12 other defendants) were the members of the grievance committee who in September, 1976 were named as member and Chairperson of Plaintiff's Hearing Committee and served the full time, September 6, 1976 through firing Oct. 8, 1977-16 sessions and 2844-page transcript.

## REASONS FOR GRANTING THIS WRIT

Jurisdiction of the United States Supreme Court is invoked under Rule 19 B for the reasons that the U.S. Court of Appeals, 7th District:

1. has decided an important State [protected under 42 U.S.C. §1983, which imposes no federal limits except those of the State] in conflict with applicable law by dismissing President Samuel Dolnick from Count III along with the Union, whose agent he is;
2. has decided an important federal law which is in conflict with applicable decisions of this Court by dismissing President Samuel Dolnick from Count IV along with the Union whose agent he is;
3. has so far departed from the accepted and usual course of judicial proceedings by refusing Plaintiff a simple correction of the record;
4. and has so sanctioned such a departure by the lower court as to call for the exercise of this Court's Power of Supervision: for the surrender of the record to *Pro Se* Plaintiff in order that she or her attorneys that she might retain will know the issues.

## CONCLUSION

For the foregoing reasons, a writ of certiorari should be issued to review the decisions and judgment of the United States Court of Appeals for the Seventh Circuit.

## CERTIFICATE OF SERVICE

I hereby certify that three copies of the foregoing Petition for a Writ of Certiorari to the United States Court of Appeals for the Seventh Circuit were sent by first class mail, postage prepaid, to counsel representing the parties to the proceeding on July 25, 1979.

*Anabel J. McCutcheon*

Apt. 3B; 1917 Tanglewood Drive  
Glenview, Illinois 60025

**United States District Court  
Northern District of Illinois  
Eastern Division**

October 20, 1978

Before  
**Hon. George N. Leighton**, Presiding Judge

**Anabel J. McCutcheon**, City of Chicago  
Plaintiff-Appellant, Board of Education, et al.

vs.

**No. 76 C 4763**

The court having granted summary judgment for defendant as to Count II of plaintiff's complaint, the Chicago Principals Association is hereby dismissed from this action. [Draft].

*Appendix B*

**United States Court of Appeals  
For the Seventh Circuit  
Chicago, Illinois 60604**

February 22, 1979

Before  
**Hon. Thomas E. Fairchild**, Chief Judge  
**Hon. Luther M. Swygert**, Circuit Judge  
**Hon. Wilbur F. Pell, Jr.** Circuit Judge

**Anabel J. McCutcheon,**  
Plaintiff-Appellant,

Nos. 78-2467 and vs. Illinois, Eastern Division.  
78-2538

No. 76-C-4763  
Judge George N. Leighton

**City of Chicago Board of Education, et al.,**  
Defendants-Appellees.

On December 6, 1978 the plaintiff-appellant filed herein a document which the court will treat as a motion to supplement the record on appeal. On December 14, 1978, this court ordered jurisdictional statements from the parties. On January 3, 1979, the defendant-appellee, Chicago Principals Association, etc., filed herein their "**Motion to dismiss the Appeals in Cases 78-2467 and 78-2538.**" On January 5, 1979 the pro se plaintiff-appellant filed herein the "**Plaintiff-Appellant's Motion to Strike Appellant Court No. 78-2538**" which is being treated as a motion to voluntarily dismiss Appeal No. 78-2538. On January 10, 1979, the pro se plaintiff-appellant filed herein "**Plaintiff's Motion #2 to Strike Defendant Chicago Principal's Union Motion and Memorandum to Dismiss as Defendants-Appellees as Inadequate.**" On January 19, 1979, the defendant-appellee, Chicago Principals Association, etc. filed herein a letter which is being treated as the appellees' statement of compliance with the order of this court entered on December 14, 1978. On consideration thereof,

**It is ordered that Appeal No. 78-2538 is hereby Dismissed in accordance with Federal Rule of Appellate Procedure 42(b).**

Appeal No. 78-2467 is an appeal from a grant of summary judgment in favor of one defendant, Chicago Principals Association, etc. The remainder of the action was not

dismissed or otherwise terminated. In the absence of a determination by the district court under Federal Rule of Civil Procedure 54(b), such order is not appealable. Therefore,

**It is ordered that Appeal No. 78-2467 is hereby Dismissed for lack of jurisdiction.**

**It is further ordered that all relief sought in other motions in these two appeals is hereby Denied as moot.**

## **Appendix C**

**United States Court of Appeals**  
For the Seventh Circuit  
Chicago, Illinois 60604

April 27, 1979  
Before

**Hon. Thomas E. Fairchild, Chief Judge**  
**Hon. Luther M. Swygert, Circuit Judge**  
**Hon. Wilbur F. Pell, Jr., Circuit Judge**

**Anabel J. McCutcheon,**  
Plaintiff-Appellant,

No. 78-2467 vs.

**City of Chicago**  
**Board of Education, et al.,** Judge  
Defendants-Appellees.

Appeal from the United  
States District Court for the  
Northern District of Illinois,  
Eastern Division  
No. 76-C-4763

**George N. Leighton,**  
Judge

## **ORDER**

On consideration of the petition for rehearing filed in the above-entitled cause by plaintiff-appellant, all members of the original panel having voted to **Deny** the same, accordingly,

**It is ordered that the aforesaid petition for rehearing be, and the same is hereby, **Denied.****

## **Appendix D**

**United States District Court,  
Northern District of Illinois  
Eastern Division**

November 3, 1978

Presiding Judge  
**Hon. George Leighton**

No. 76-C-4763

**Anabel J. McCutcheon**

**vs.**

**Chicago Board of Education, et al.**

To clarify motions of plaintiff and to resist surrender of court files or original documents to plaintiff.

Michael J. Murray - 228 N. LaSalle St., Chicago 60601

Paul H. Heineke - 135 S. LaSalle St., Chicago 60603

**Defendants**

Ronald S. Cope - 111 W. Washington St., Chicago 60602

**Attorney for plaintiff**

Anabel J. McCutcheon - plaintiff

1917 Tanglewood Drive, Apt. 3B, Glenview, Ill. 60025

Pursuant to the Court's Views as expressed on the record no order is entered on the motion to resist surrender of Court file etc. The defendants are granted to November 23, 1978 to file memoranda in support of motion to dismiss directed at 78 C 3894, 78 C 3399 and 78 C 3955. The answer of plaintiff to be filed on or before December 12, 1978. Reply to filed on or before December 28, 1978. Court will rule on January 12, 1979 via mail. Cause set for status on January 19, 1979.

## **Appendix E**

### **CONSTITUTIONAL PROVISIONS, STATUTES**

Jurisdiction of the federal courts is invoked pursuant to Title VII of the Civil Rights Act of 1964 ("Title VII"):

#### **EQUAL PAY ACT OF 1963**

(Act of June 10, 1963, Public Law 88-38, 77 Stat. 56, effective June 11, 1964)

[¶ 22,298]

#### **AN ACT**

To prohibit discrimination on account of sex in the payment of wages by employers engaged in commerce or in the production of goods for commerce.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### **TITLE**

[Section 1.] This Act may be cited as the "Equal Pay Act of 1963".

#### **DECLARATION OF PURPOSE**

**Sec. 2. (a)** The Congress hereby finds that the existence in industries engaged in commerce or in the production of goods for commerce of wage differentials based on sex—

(1) depresses wages and living standards for employees necessary for their health and efficiency;

(2) prevents the maximum utilization of the available labor resources;

(3) tends to cause labor disputes, thereby burdening, affecting, and obstructing commerce;

(4) burdens commerce and the free flow of goods in commerce; and

(5) constitutes an unfair method of competition.

(b) It is hereby declared to be the policy of this Act, through exercise by Congress of its power to regulate commerce among the several States and with foreign nations, to correct the conditions above referred to in such industries.

#### **[EQUAL PAY AMENDMENT OF FLSA]**

**Sec. 3.** Section 6 of the Fair Labor Standards Act of 1938, as amended (29 U. S. C. *et seq.*) is amended by adding thereto a new subsection (d) as follows: [The amendments made by the Equal Pay Act of 1963 are incorporated in place in the Fair Labor Standards Act of 1938, as amended, reproduced in full text at ¶22,050.]

#### **[EFFECTIVE DATES]**

**Sec. 4.** The amendments made by this Act shall take effect upon the expiration of one year from the date of its enactment: *Provided*, That in the case of employees covered by bona fide collective bargaining agreement in effect at least thirty days prior to the date of enactment of this Act, entered into by a labor organization (as defined in section 6(d)(4) of the Fair Labor Standards Act of 1938, as amended), the amendments made by this Act shall take effect upon the termination of such collective bargaining agreement or upon the expiration of two years from the date of enactment of this Act, whichever shall occur first.

Jurisdiction of the federal courts is invoked pursuant to 42 U.S.C. 1983, 1988:

#### **§ 1983. Civil action for deprivation of rights.**

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for ~~redress~~  
R.S. § 1979.

#### **§ 1988. Proceedings in vindication of civil rights**

The jurisdiction in civil and criminal matters conferred on the district courts by the provisions of this chapter and Title 18, for the protection of all persons in the United States in their civil rights, and for their vindication, shall be exercised and enforced in conformity with the laws of the United States, so far as such laws are suitable to carry the same into effect; but in all cases where they are not adapted to the object, or are deficient in the provisions necessary to furnish suitable remedies and punish offenses against law, the common law, as modified and changed by the constitution and statutes of the State wherein the court having jurisdiction of such civil or criminal cause is held, so far as the same is not inconsistent with the Constitution and laws of the United States, shall be extended to and govern the said courts in the trial and disposition of the cause, and, if it is of a criminal nature, in the infliction of punishment on the party found guilty.  
R.S. § 722.

under the F.R.C.P., Rule #8